

The Orissa Gazette



EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 2496 CUTTACK, THURSDAY, NOVEMBER 17, 2011/KARTIKA 26, 1933

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 4th November 2011

No. 9932—li/1(B)-35/2008-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 3rd September 2011 in Industrial Dispute Case No. 2 of 2008 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of N.A.C., Khandapara, Dist. Nayagarh and their workman Shri Bibhuti Bhusan Mohapatra was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 2 OF 2008

Dated the 3rd September 2011

Present :

S.A.K.Z. Ahamed,
Presiding Officer,
Labour Court, Bhubaneswar.

Between :

The management of N.A.C., .. First Party—Management
Khandapara, Dist. Nayagarh

And

Their workman .. Second Party—Workman
Shri Bibhuti Bhusan Mohapatra

Appearances :

For the First Party—Management .. None

For the Second Party—Workman himself .. Shri B. B. Mohapatra

AWARD

The Government of Odisha in exercise of powers conferred by sub-section (5) of Section 12, read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act have referred the matter in dispute to this Court vide Order No. 4556—li/1(B)-35/2008-LE., dated the 16th April 2008 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows :

“Whether the action of the management of N. A.C., Khandapara, Dist. Nayagarh in terminating the service of Shri Bibhuti Bhushan Mohapatra, Electrician with effect from the 16th June 2006 by way of refusal of employment is legal and/or justified ? If not, to what relief Shri Mohapatra is entitled ?”

3. The workman’s case, in brief, as setout in his statement of claim is that he was working as N.M.R. with effect from the 12th May 2004 as per office order No. 261, dated the 12th May 2004. His last wage was Rs. 2,100 per month. There was no stigma against him. On the 16th October 2006 when he went to report for his duty, the management refused his employment without following the statutory provisions of Section 25-F of the Industrial Disputes Act. The principles of natural justice has also not been followed by the management at the time of refusal of employment. So in this back ground, the workman has prayed for his reinstatement in service with full back wages and all other service benefits.

4. The management was set *ex parte*.

5. In order to substantiate his plea, the workman has examined himself as W. W. 1 and proved documents susch as, Xerox copy of office order No. 261, dated the 12th May 2004, Xerox copy of representation dated the 11th October 2006, Xerox copy of note sheet dated the 17th April 2006 of District Labour Officer, Nayagarh and Xerox copy of Electrical Workmen permit under the cover of Exts. 1 to 4 respectively.

6. In his affidavit evidence, the workman has stated that he was working as N.M.R. with effect from the 12th May 2004 under the cover of Ext. 1 and has corroborated the facts as stated in his statement of claim. Since the management has been set *ex parte* and the evidence both oral and documentary tendered by the workman have remained uncontroverted, I have no option but to answer in affirmative in favour of the workman.

7. It is stated by the workman that no notice was served on him before he was terminated. Also notice pay or any compensation was paid to him before refusing employment by the management. Thus the management has contravend the provisions of Section 25-F of the Industrial Disputes Act which is a mandatory and precondition one. In the result thereof, in my opinion the workman is entitled to be reinstated in service with full back wages.

8. Hence it is ordered :

That the action of the management of the N.A.C., Khandapara, Dist. Nayagarh in terminating the service of Shri Bibhuti Bhusan Mohapatra, Electrician with effect from the 16th June 2006 by way of refusal of employment is neither legal nor justified. The workman Shri Mohapatra is entitled to be reinstated in service with full back wages. The management is directed to implement this award within two months from the date of its publication failing which the amount shall carry interest at the rate of 10% per annum till its realisation.

The reference is answered accordingly *ex parte*.

Dictated and corrected by me.

S. A. K.Z. AHAMED
3-9-2011
Presiding Officer
Labour Court, Bhubaneswar

S. A. K.Z. AHAMED
3-9-2011
Presiding Officer
Labour Court, Bhubaneswar

By order of the Governor
T. K. PANDA
Under-Secretary to Government